

Message Text

CONFIDENTIAL

PAGE 01 USBERL 02355 01 OF 02 121212Z
ACTION EUR-12

INFO OCT-01 ISO-00 SSO-00 NSCE-00 INRE-00 USIE-00
CIAE-00 DODE-00 PM-05 H-01 INR-07 L-03 NSAE-00
PA-01 PRS-01 SP-02 SS-15 IO-13 ACDA-07 EB-08
TRSE-00 OMB-01 /077 W
-----058036 121223Z /41

O P 121120Z SEP 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC IMMEDIATE 5251
INFO AMEMBASSY BONN IMMEDIATE
AMEMBASSY MOSCOW PRIORITY
AMEMBASSY LONDON PRIORITY
AMEMBASSY PARIS PRIORITY
AMEMBASSY BERLIN
AMEMBASSY BRUSSELS

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 2355

USEC

E O 11652: GDS
TAGS: AKB, E, UR
SUBJ: SOVIET PROTEST ON BERLIN INCLUSION IN ELECTIONS TO
EUROPEAN PARLIAMENT, AND OTHER BERLIN-EC RELATIONS

REF: USBERLIN 2327 (NOTAL)

ON SEPTEMBER 7, SOVIET EMBASSY POLITICAL COUNSELOR
KHOTULEV CALLED ON CHAIRMAN POLAD (FRENCH) TO DELIVER
DECLARATION ON BERLIN - EC RELATIONS. KHOTULEV
STATEMENT WAS MADE IN RUSSIAN BASED ON PAPER WHICH HE
LEFT WITH FRENCH. FRENCH MISSION HAS PROVIDED US WITH
INFORMAL TRANSLATION WHICH WE HAVE REPEATED TO BONN
(REFTEL). BELOW IS USBER INFORMAL TRANSLATION OF FRENCH
TEXT. WE ARE POUCHING COPY OF RUSSIAN TEXT TO BONN
AND DEPARTMENT. MISSION WOULD APPRECIATE RECEIPT, AS
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PAGE 02 USBERL 02355 01 OF 02 121212Z

SOON AS POSSIBLE, OF FORMAL TRANSLATION OF RUSSIAN TEXT.
AS IS CUSTOMARY, FRENCH POLAD GAVE ON THE SPOT ORAL
REFUTATION OF SOVIET ARGUMENTS. FRENCH COMMENTS AND OUR
OWN BEING REPORTED SEPTEL. BERLIN MISSIONS ARE ALSO
NOW IN PROCESS OF PREPARING DRAFT OF WRITTEN REPLY TO
SOVIETS. DRAFT WHEN PREPARED AND AGREED HERE WILL BE
FORWARDED TO BONN FOR ACTION.

BEGIN TEXT

RECENT TIMES HAVE BECOME WELL-KNOWN FOR THE ACTS OF THE WESTERN SIDE (TRANSLATOR'S NOTE: I.E. THE US, BRITISH AND FRENCH) IN PURSUIT OF THE OBJECTIVES OF INCLUSION OF THE WESTERN SECTORS OF BERLIN IN THE PROCESS OF POLITICAL INTEGRATION OF THE STATES OF WESTERN EUROPE AND OF INCLUSION OF THE CITY IN THE JURIDICAL-POLITICAL SYSTEM OF THE MEMBER STATES OF THE WESTERN EUROPEAN COMMUNITY.

THUS, IN PARTICULAR, SEVERAL DAYS AGO THERE WAS PUBLISHED IN THE COMPENDIUM OF LAWS AND REGULATIONS EDITED BY THE WEST BERLIN SENAT AN ORDER OF THE MILITARY ADMINISTRATIONS OF THE THREE POWERS - BK/O (77)8 OF 19 JULY 1977 - IN WHICH THE THREE POWERS GIVE THEIR AGREEMENT TO THE EXTENSION TO BERLIN OF THE DECISION AND ACT OF THE COUNCIL OF THE EUROPEAN COMMUNITY CONCERNING THE ORGANIZATION OF GENERAL, DIRECT ELECTIONS OF DELEGATES TO THE EUROPEAN PARLIAMENT. NEITHER FROM THE POLITICAL POINT OF VIEW NOR FROM THE POINT OF VIEW OF INTERNATIONAL LAW IS THIS ACT VALID. ONE KNOWS WELL, FIRST OF ALL, THAT AS A RESULT OF THE SCHISMATIC POLITICS OF THE WESTERN POWERS BERLIN AS SUCH HAS NOT EXISTED FOR A LONG TIME. A QUESTION OF PRINCIPLE ARISES: WHAT IS THE SUBJECT OF THE BK/O
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PAGE 03 USBERL 02355 01 OF 02 121212Z

MENTIONED ABOVE? THE POLITICAL REALITY IS THE EXISTENCE OF BERLIN, CAPITAL OF THE GDR AND OF THE WESTERN SECTORS OF BERLIN. IN A CERTAIN SENSE; THE ACTIONS OF THE WESTERN PARTY CAN ONLY BE REGARDED AS AN INADMISSIBLE ATTEMPT TO INFRINGE THE SOVEREIGNTY OF A STATE MEMBER OF THE UNITED NATIONS, THE GDR.

BUT IF THIS DECISION CONCERNS THE WESTERN SECTORS OF BERLIN, WHICH HAVE A SPECIAL (PARTICULIER) POLITICAL STATUS, IT IS THEN NECESSARY TO TAKE INTO CONSIDERATION THE FACT THAT THE STATUS IN INTERNATIONAL LAW OF THIS CITY IS NOT DETERMINED BY THE THREE WESTERN POWERS, BUT BY QUADRIPARTITE AGREEMENTS AND DECISIONS. THAT IS WHY THE INTENTION OF THE WESTERN PARTY TO INCLUDE THIS CITY IN THE PROCESS OF POLITICAL AND JURIDICAL INTEGRATION OF THE COUNTRIES OF WESTERN EUROPE AND BY THE SAME TOKEN, TO MODIFY UNILATERALLY AND MATERIALLY THE STATUS OF THE CITY CAN HAVE NO LEGAL FORCE. THE EC IS A CLOSED GROUPING, A BLOC, AND ANY POLITICALLY ORGANIC PARTICIPATION OF THE WESTERN SECTORS WITH THEIR SPECIFIC, QUADRIPARTITE STATUS IN IT IS INADMISSIBLE.

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PAGE 01 USBERL 02355 02 OF 02 121220Z
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C O N F I D E N T I A L SECTION 2 OF 2 USBERLIN 2355

USEC

THE SOVIET EMBASSY CANNOT AVOID DRAWING ATTENTION
TO THE INDICATION CONTAINED IN THIS BK/O THAT THE BERLIN
HOUSE OF REPRESENTATIVES SHOULD ELECT ITS REPRESENTATIVES
TO THE EUROPEAN PARLIAMENT WITHIN THE LIMITS OF THE FRG
CONTINGENT; THAT IS IN DIRECT CONTRADICTION WITH THE
BASIC PROVISION OF THE QUADRIpartite AGREEMENT OF
3 SEPTEMBER 1971 ACCORDING TO WHICH THE WESTERN SECTORS
OF BERLIN ARE NOT A CONSTITUENT PART OF THE FRG AND
CONTINUE NOT TO BE GOVERNED BY IT.

FURTHER, THE SOVIET EMBASSY DRAWS ATTENTION TO THE
ATTEMPTS OF THE WESTERN SIDE, MANIFESTED IN RECENT TIMES,
TO EXTEND TO WEST BERLIN THE JURISDICTION OF CERTAIN
ORGANS OF THE EC, AND IN PARTICULAR, THE JURISDICTION
OF THE EC COURT OF JUSTICE (LUXEMBOURG). DURING LAST
JULY, DURING THE EXAMINATION OF THE QUESTION OF THE
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PAGE 02 USBERL 02355 02 OF 02 121220Z

IMPOSITION OF DIFFERING TYPES OF CUSTOMS DUTIES, THE COURT TOOK DECISIONS BINDING ON THE COURTS OF THE CITY, AS IF THE WESTERN SECTORS OF BERLIN WERE INCLUDED IN THE SPHERE OF RESPONSIBILITY OF THE LEGAL ORGANS OF THE EC.

THE EMBASSY OF THE USSR IN THE GDR EXPRESSES ITSELF FIRMLY AGAINST THE ORDER DATED 19 JULY 1977, OF THE MILITARY ADMINISTRATIONS OF THE THREE POWERS WHICH ASSOCIATES THE WESTERN SECTORS OF BERLIN WITH THE DIRECT ELECTIONS TO THE EUROPEAN PARLIAMENT, AND AGAINST THEIR OTHER ACTIVITIES WITH THE OBJECTIVE OF THE LEGAL ASSOCIATION OF THE CITY WITH THE EC.

I HAVE BEEN CHARGED TO STATE TO YOU THAT ANY EFFORTS OF THE WESTERN SECTORS TO ATTEMPT TO TRANSFORM UNILATERALLY THE STATES OF WEST BERLIN AND TO ACT IN CONTRADICTION WITH THE FUNDAMENTAL PROVISION OF THE QUADRIPARTITE AGREEMENT STIPULATING THAT THE CITY DOES NOT FORM PART OF THE FRG AND IS NOT SUBJECT TO ITS POWER, CAN, IN SUM, CAUSE INJURY NOT ONLY TO THOSE WHO DISREGARD EXISTING ARRANGEMENTS, BUT ALSO, IN THE FIRST INSTANCE, TO WEST BERLIN ITSELF. THE RESPONSIBILITY FOR THE CONSEQUENCES OF SUCH ACTIONS RESTS ENTIRELY WITH THE WESTERN SIDE.
END TEXT.GEORGE

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